

REMARKS/ARGUMENTS

Claims 1 – 6 have been cancelled.

Claims 7 – 12 remain in this RCE Application.

This is a second supplemental response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 2/11/2009, due to the Examiner's Interview Summary, (conducted 2/20/2009) and mailed 2/25/2009, and based in part on advice from the USPTO Inventor Support Center. Also included is a copy of the Examiner's Interview Summary. Apparently, all FAX transmissions sent to the PTO on weekends receive the date of the following Monday, which may have caused confusion since several FAX's were sent over the weekend days of 2/21 and 2/22.

Per Examiner Subramanian's instructions and format, amendments to Claims are reflected in the listing of Claims, which begins on page 2 of this communication.

Claims are the same as in the last communication dated 2/21/2009 and submitted by FAX on 2/21/2009 (10 pages @ 9:50 AM and 1 page correction @ 9:57 AM). Except for the numbering of the Claims and the removal of the "RCE" identifier on the new claims, the claims content is the same as the original 1/27/2009 dated submission.

REPONSE TO 2/20/2009 TELEPHONE INTERVIEW SUMMARY:

The telephone interview was primarily focused on the current proper USPTO process and format necessary to place the claims filed on 1/27/2009 in condition of allowance. The proper content of a cover sheet required to accompany the revised numbering of the 8/22/2008 RCE claims was discussed, and the Applicant FAX'd the changes to the original Cover Sheet provided by the Examiner, which were suggested in an earlier conversation (prior to 2/20/2009).

A subsequent telephone call from the Examiner lead to a correction of two minor typographical errors in the 2/20, 21/2009 version of the Claims; Claims #8-12 incorrectly still referred to Claim#1 instead of New Claim #7, and the new Claims #7-12 required deletion of the "RCE" identifier preceding each New Claim number.

The Applicant believes that the Examiner mailed the Interview Summary of 2/20/2009 and request for a statement of the substance of the Interview before he received the above listed changes, which were FAX'd to the Examiner on 2/20 - 21/2008. This submission corrects any deficiencies that were subsequently discovered by the Applicant (i.e., "Serial #" is replaced by "Application #") in the Cover Sheet.

The Applicant requested possible outcomes of the Examiner's possible actions based

on material in the 2/20 and 2/21 FAX submissions. The Examiner indicated he would not act on those submissions until the proper formats required for examination on the merits to proceed. He also indicated that, if necessary, a future ruling rejecting allowance would not be made final.

ARGUMENTS FOR ALLOWABILITY OF CLAIMS 7 – 12:

1. The following argument is based on the five statutory classes into which patents are grouped (i.e., “process, machine, manufacture, composition of matter, and new and useful improvements thereof” per the Examiner). As previously indicated in notes and discussions with the Examiner and Supervisor, the Applicant believes that the primary emphasis for patentability should be on the claims classification “new and (or) useful improvement thereof”, as applied to the first four classes as listed above. The Applicant’s Claims are now based on the “manufacture” (or “article of manufacture”) category. A recent press release indicated that the U. S. Supreme Court will be taking on the case/issue of “business methods” patents (e.g., a “process” class). The Applicant believes that his patent application does not fall into this class, and thus the issuance of a patent should not be delayed due to a pending Supreme Court case regarding “business methods”. Therefore, the category “new and useful improvement” should not apply to this application as currently structured since there is no prior art that reads to this invention prior to the Applicants submissions (starting with a Provisional Application, dated 1/2002).

2. This Applicant believes that any business method or process ultimately should refer to an end product, as defined by categories 2 -5 in Item #1 above. Therefore, the Applicant believes that the claims, as currently presented in the 1/27/2009 submission, should be placed in a "condition of allowance".

3. As a practical matter, the Examiner is no doubt aware that the country is in the midst of a housing crisis, and the United States government is working to find a solution to fix the problems that led to this crisis. The Applicant believes that his invention, currently being examined by the USPTO, may provide a solution to prevent a future recurrence of this crisis, and therefore believes that a patent should be issued. Since the U. S. government has free and unlimited use of all patented inventions, there is no incremental direct cost for the U. S. government to utilize this applicant's product, and therefore cannot be a monetary barrier to issuance of a patent. Most importantly, if the patent is denied, and the invention is subsequently practiced, that would send the wrong signal to independent inventors regarding the value of the patent system. If a patent is issued and there are aggrieved parties, they can enter proceedings to try and invalidate the patent, and the U. S. court system can fairly adjudicate the issues. This approach would insure the continued integrity of the USPTO patent system.

Therefore, this Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By Neil C. Schoen (Dr. Neil C. Schoen)

Customer #: 000064260

Telephone: (301) 330 - 5484